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**WTO Panel Upholds Key Sections of
U.S. Antidumping and Countervailing Duty Laws**

WASHINGTON – The Office of the United States Trade Representative announced today that the World Trade Organization (WTO) has completed a final report upholding key sections of the U.S. antidumping and countervailing duty laws. The WTO found that certain U.S. laws used in AD/CVD cases – the “facts available” provisions – do not breach WTO rules.

The U.S. facts available provisions allow the United States to complete antidumping and countervailing duty investigations when foreign companies refuse or otherwise fail to provide necessary information. Antidumping and countervailing duty laws are used to combat unfair foreign trade practices that cause injury to U.S. industries.

“We welcome the WTO’s finding that these key sections of our antidumping and countervailing duty laws are consistent with WTO rules,” said U.S. Trade Representative Robert B. Zoellick. “While we do not agree with all of the panel’s conclusions, its reasoning will protect our ability to use these important components of U.S. trade remedy laws in the future.”

The WTO report arose from a challenge by India to the U.S. antidumping order on Indian steel plate. India had claimed that the procedures used in this case were inconsistent with WTO rules. The panel agreed with the United States that key parts of the overall U.S. AD/CVD laws did not breach any of the WTO rules that India had cited.

In addition to its challenge to the legal provisions as such and the overall facts available “practice,” India had also contested the application of those provisions during the challenged antidumping investigation, and the treatment of India under the “developing country” section of WTO antidumping rules.

To summarize, the panel found that:

- The U.S. legal provisions governing the use of “facts available” are consistent with WTO rules.

- The facts available “practice” is not a “measure” that can be challenged at the WTO.
- The United States acted consistently with the developing country provision of the Antidumping Agreement.
- The panel disagreed, however, with the application of the facts available provisions in the specific antidumping investigation. The panel found that the U.S. did not provide a legally sufficient justification for its decision to disregard certain data from the Indian producer and instead to rely entirely on the facts available to establish the producer’s antidumping margin.

Background:

The U.S. facts available provisions, sections 776(a), 782(d), and 782(e) of the Tariff Act of 1930, as amended, allow the United States to complete antidumping and countervailing duty investigations when companies refuse or otherwise fail to provide necessary information. The United States was unable to obtain usable information from the Indian respondent company and used the facts available provisions to calculate an antidumping margin for the company during the antidumping investigation of steel plate from India. The WTO report upheld the U.S. statute.

The United States imposed an antidumping order on Indian steel plate imports on February 10, 2000. India requested WTO consultations on October 4, 2000. The WTO panel, which was established on July 24, 2001, issued its final report to the parties on June 21, 2002.

Both parties may appeal the ruling. The United States will review the report in full before making a decision on appeal.

The panel report will be posted on the WTO website (www.wto.org). The briefs that USTR submitted to the Panel in the dispute are available on the USTR website at www.ustr.gov/enforcement/briefs.

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